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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/823,506

03/28/2001

Dennis Sunga Fernandez

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22877 7590 12/21/2005

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EXAMINER

VO, TUNG T

ART UNIT

PAPER NUMBER

2613

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/823,506

Applicant(s)

FERNANDEZ ET AL.

Examiner

Tung Vo

Art Unit

2613

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 03 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 20-37.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

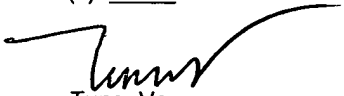
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


Tung Vo
Primary Examiner
Art Unit: 2613

Response to Arguments

1. Applicant's arguments filed 11/03/2005 have been fully considered but they are not persuasive.

The applicant argued that Davis does not teach or suggest "automatically corroborating the monitored vital sign with the observed location of the remote patient"; Lucas does not teach "the first detector being a part of fixed imaging array of detectors for monitoring the remote patient", Englander merely provides school bus vehicle (non-medical/patient monitoring), pages 9-11 of the remarks.

The examiner respectfully disagrees with the applicant. It is submitted that Davis teaches the camera for monitoring the patient in 24 hours and patient medical conditions (10 of fig. 1) such as heart rate, temperature, oximetry data, etc...are simultaneously sent to the central (20 of fig. 1; col. 8, line 59-col. 9, line 23) and the central is able to engage in interactive visual communication concerning the patient's current medical condition; this disclosure would fairly suggest automatically corroborating the monitored vital sign with the observed location of the remote patient as claimed. Davis further teaches the camera (106 of fig. 6) is a fixed detector for monitoring the patient all the time.

Note the applicant discloses alternately in facility monitoring application, detectors 3 may be implemented to sense state and other measurement signals from motion detector, burglar alarm, door or window open/close detector, smoke detector, thermostat, phone answering machine, or other electrical home appliance ([0025] of the application).

David suggests the first detector for monitoring (detecting) fire, gas, leakage, etc. (col. 20, lines 49-53) as the same purpose of the applicant disclosed. However, David does not

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particularly teach a fixed imaging array of detectors and secured screening to at least one of such array detectors being override (over- ridden) for emergency access as claimed.

Lucas teaches a fixed imaging array of detectors (2 of fig. 1, col. 4, lines 4 and 5) for monitoring (detecting) area, or smoke, and secured screening (28 of fig. 1) to at least one of such array detectors being override (over-ridden) for emergency access (col. 4, lines 67 - col. 5, line 9). Therefore, one skill of ordinary in the art would obviously use the detectors (2 of fig. 1) of Lucas into the system of Davis for being over-ridable for emergency access.

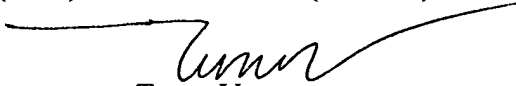
Note the applicant has not disclosed that the uncoupled decoy detector provides an advantage, is used for a particular purpose or solves a stated problem. Therefore, one of ordinary skill in the art, furthermore, would use the uncoupled decoy detector of Englander into the combined system of Davis and Lucas for being apart of the fixed array detectors. In view of the above, the combination of Davis, Lucas, and Englander makes obvious the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tung Vo
Primary Examiner
Art Unit 2613